

Executive Summary – Enforcement Matter – Case No. 37340
FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dba Chaparral III
RN101219384
Docket No. 2011-0094-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Chaparral III, located at the intersection of Mesheppard Road and County Road 100, four miles east of Georgetown, Williamson County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 20, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$705

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$705

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 37340
FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dba Chaparral III
RN101219384
Docket No. 2011-0094-PWS-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 18, 2010
Date(s) of NOE(s): December 22, 2010

Violation Information

Failed to maintain all storage tanks and associated appurtenances in a watertight condition [30 TEX. ADMIN. CODE § 290.43(c)(6) and TCEQ Agreed Order Docket No. 2009-0406-PWS-E, Ordering Provision No. 2.c.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

- a. Within 90 days, repair the leak underneath the ground storage tank and ensure the tank is maintained in a watertight condition; and
- b. Within 105 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Amanda Henry, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3672; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Doyle Foster, Owner, FOSTER CONSOLIDATED INVESTMENTS, L.L.C., 2405 Country Round 124, Georgetown, Texas 78628
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Dec-2010	Screening	3-Jan-2011	EPA Due	31-Aug-2011
	PCW	5-Jan-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dba Chaparral III		
Reg. Ent. Ref. No.	RN101219384		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	37340	No. of Violations	1
Docket No.	2011-0094-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amanda Henry
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 3-Jan-2011

Docket No. 2011-0094-PWS-E

PCW

Respondent FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dl

Policy Revision 2 (September 2002)

Case ID No. 37340

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101219384

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 41%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations, three dissimilar NOVs, and one final agreed order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 41%

Screening Date 3-Jan-2011

Docket No. 2011-0094-PWS-E

PCW

Respondent FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dba Chaparral

Policy Revision 2 (September 2002)

Case ID No. 37340

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101219384

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(6) and TCEQ Agreed Order Docket No. 2009-0406-PWS-E, Ordering Provision No. 2.c.

Violation Description Failed to maintain all storage tanks and associated appurtenances in a watertight condition. Specifically, at the time of the investigation, it was documented that the Respondent failed to repair the leak underneath the ground storage tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Failure to maintain the storage tank in a water-tight condition could expose the customers of the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 5 409 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$500

Five quarterly events are recommended calculated from the effective date of the TCEQ Agreed Order Docket No. 2009-0406-PWS-E, November 20, 2009, to the date of screening, January 3, 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$61

Violation Final Penalty Total \$705

This violation Final Assessed Penalty (adjusted for limits) \$705

Economic Benefit Worksheet

Respondent FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dba Chaparral III
Case ID No. 37340
Req. Ent. Reference No. RN101219384
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$500	20-Nov-2009	15-Aug-2011	1.73	\$3	\$58	\$61
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount necessary to repair the leak in the ground storage tank. The date required is the effective date of TCEQ Agreed Order Docket No. 2009-0406-PWS-E. The final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$61

Compliance History

Customer/Respondent/Owner-Operator: CN602624124 Foster Consolidated Investments, L.L.C. Classification: AVERAGE Rating: 3.01
Regulated Entity: RN101219384 CHAPARRAL III Classification: AVERAGE Site Rating: 3.01

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2460047
Location: INTERSECTION OF MESHEPPARD ROAD AND COUNTY ROAD 100, FOUR MILES EAST OF GEORGETOWN, WILLIAMSON COUNTY, TEXAS

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: January 05, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 05, 2006 to January 05, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Amanda Henry Phone: (713) 767-3672

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 11/20/2009 ADMINORDER 2009-0406-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)

Description: The water system failed to ensure that a potable water storage tank was thoroughly tight against leakage. The floor of the ground storage tank was leaking.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: The water system failed to maintain the good working condition and general appearance of the piping in the pump house. Paint was peeling off of the pipes connecting the service pumps.

Corrosion was present in several places. Additionally, a small leak had developed where the piping connects to one of the service pumps.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 05/06/2008(657146)

2 08/29/2008 (701099)

- 3 01/20/2009 (724112)
- 4 02/09/2009 (726385)
- 5 05/07/2009 (779226)
- 6 09/04/2009 (779256)
- 7 09/08/2009 (779257)
- 8 10/14/2009 (779338)
- 9 12/16/2010 (880558)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/29/2008 (701099) CN602624124
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)
 Description: The water system failed to ensure that a potable water storage tank was thoroughly tight against leakage. The floor of the ground storage tank was leaking.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: The water system failed to maintain the good working condition and general appearance of the piping in the pump house. Paint was peeling off of the pipes connecting the service pumps. Corrosion was present in several places. Additionally, a small leak had developed where the piping connects to one of the service pumps.

Date: 01/21/2009 (724112) CN602624124
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)
 Description: The water system failed to ensure that a potable water storage tank was thoroughly tight against leakage. The floor of the ground storage tank was leaking.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: The water system failed to maintain the good working condition and general appearance of the piping in the pump house. Paint was peeling off of the pipes connecting the service pumps. Corrosion was present in several places. Additionally, a small leak had developed where the piping connects to one of the service pumps.

Date: 05/07/2009 (779226) CN602624124
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for fluoride during the first quarter of 2009.

Date: 09/04/2009 (779256) CN602624124
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for fluoride during the second quarter of 2009.

Date: 09/08/2009 (779257) CN602624124
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for fluoride during the third quarter of

2009.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FOSTER CONSOLIDATED
INVESTMENTS, L.L.C. DBA
CHAPARRAL III
RN101219384**

§
§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0094-PWS-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dba Chaparral III (“the Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at the intersection of Mesheppard Road and County Road 100, four miles east of Georgetown, Williamson

County, Texas (the "Facility") that has approximately 69 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation on November 18, 2010, TCEQ staff documented that the Respondent did not maintain all storage tanks and associated appurtenances in a watertight condition. Specifically, at the time of the investigation, it was documented that the Respondent did not repair the leak underneath the ground storage tank.
3. The Respondent received notice of the violations on December 17, 2010.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to maintain all storage tanks and associated appurtenances in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(6) and TCEQ Agreed Order Docket No. 2009-0406-PWS-E, Ordering Provision No. 2.c.
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Seven Hundred Five Dollars (\$705) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Seven Hundred Five Dollar (\$705) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Seven Hundred Five Dollars (\$705) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re:

FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dba Chaparral III, Docket No. 2011-0094-PWS-E” to:

Financial Administration Division, Revenues Section
Attention: Cashier’s Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, repair the leak underneath the ground storage tank and ensure the tank is maintained in a watertight condition, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dba Chaparral III

DOCKET NO. 2011-0094-PWS-E

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9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Redlin
For the Executive Director

Date 6/2/2011

I, the undersigned, have read and understand the attached Agreed Order in the matter of FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dba Chaparral III. I am authorized to agree to the attached Agreed Order on behalf of FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dba Chaparral III, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dba Chaparral III waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Doyle Foster
Signature

4/12/11
Date

Doyle Foster
Name (Printed or typed)
Authorized Representative of
FOSTER CONSOLIDATED INVESTMENTS, L.L.C. dba Chaparral III

Owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.